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MAR 15 1994

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. 93-298
)	
DAVID LEE COMMUNICATIONS, INC.)	File No. BR-890602UJ
)	
For Renewal of License of)	
Station WTRX(AM))	
Flint, Michigan)	

To: Administrative Law Judge
 Joseph Chachkin

MASS MEDIA BUREAU'S COMMENTS
ON MOTION FOR SUMMARY DECISION
AND COUNTERMOTION FOR SUMMARY DECISION

1. On March 1, 1994, David Lee Communications, Inc. ("Lee") filed a motion for summary decision. The Mass Media Bureau hereby files the following comments and counter motion for summary decision.

2. Lee seeks summary decision on the issues specified in the Hearing Designation Order, 8 FCC Rcd 8412 (MMB 1993) ("HDO"):

(a) To determine whether David Lee Communications, Inc. has the capability and intent to expeditiously resume broadcast operations of WTRX(AM) consistent with the Commission's Rules.

(b) To determine whether David Lee Communications, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the preceding issues, whether grant of the subject renewal of license application would serve the public interest, convenience and necessity.

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3. The basic facts are not in dispute. Lee became licensee of Station WTRX(AM) on June 2, 1989, pursuant to an assignment of license (See File No. BAL-890210EB). On June 2, 1990, Lee filed its application for renewal of license. While its renewal application was pending, Lee ceased broadcast operations on Station WTRX(AM) on August 20, 1990. On September 10, 1990, Lee requested authority to suspend its operations, citing financial difficulties. Motion for Summary Decision, Exhibit 1, p. 1. By letter dated October 29, 1990, Lee was granted special temporary authority to remain silent through November 30, 1990. Thereafter, shortly before its authority to remain silent expired, Lee periodically submitted requests for continued authority to remain silent. See Attachments A through D; Motion for Summary Decision, Exhibit 1, pp. 3-4. Generally, the staff granted Lee's requests within a few weeks of their submission. See Attachments E and F; Motion for Summary Decision, Exhibit 1, p. 5.

4. On December 18, 1992, Lee again requested an extension of its authority to remain silent. Lee related that it was "still in the process of working on the financial aspect of returning" its station to the air and that it was "currently negotiating with several investors ... to provide the necessary funding" Motion for Summary Decision, Exhibit 1, pp. 7-8. Lee's request was granted by letter dated January 29, 1993.

Therein, Lee was advised that any further requests for authority to remain silent "must be accompanied by a detailed summary of steps taken to return the station to on-air operations."¹ Motion for Summary Decision, Exhibit 1, p. 9.

5. On April 13, 1993, Lee submitted its final request for authority to remain silent. Motion for Summary Decision, Exhibit 1, pp. 10-11. Except for the date, Lee's letter was identical to its letter of December 18, 1992. By letter dated April 30, 1993, the staff found Lee's letter insufficient to warrant any further extension of its authority to remain silent, and gave Lee 30 days in which to provide a "detailed explanation of the specific steps you have taken and plan to take to return your station to the air. This may include, but is not limited to, a marketing plan, proof of listing with a broker, a list of prospective investors or buyers contacted and all other positive efforts made to sell the station." Motion for Summary Decision, Exhibit 1, pp. 12-13.

6. Lee's late-filed response, dated June 3, 1993, enclosed a bank commitment letter and related that Lee was "currently in the process of negotiating a merger with a local station which we expect would ... put the station back on air in a relatively short period of time." Motion for Summary Decision, Exhibit 1,

¹ A staff letter, which granted Lee's September 15, 1992, request, was virtually identical to the staff's January 29, 1993, letter. See Motion for Summary Decision, Exhibit 1, pp. 6 and 9; and Attachment D.

p. 14. However, the commitment letter said nothing about providing funds for resumption of broadcast operations on Station WTRX(AM) and it did not indicate how much money, if any, would be left after payment of an existing debt. Moreover, the commitment letter expressly stated that it would expire at the bank's option if, among other things, the loan was not closed on or before June 1, 1993. Attachment G. Lee's June 3, 1993, letter to the Commission neither stated that the loan had closed nor gave any hint as to when the closing would occur. The Commission heard nothing further from Lee until its late-filed notice of appearance in this proceeding.

7. On January 19, 1994, Lee and Saginaw Bay Broadcasting Corporation ("Saginaw"), licensee of Station WMAX(AM), Bay City, Michigan, entered into a time brokerage agreement, whereby Saginaw would provide programming for Station WTRX(AM). Motion for Summary Decision, Exhibit 2. On January 27, 1994, Lee filed a request for special temporary authority to resume broadcasting on Station WTRX(AM). Authority to operate was granted by letter dated January 28, 1994. Motion for Summary Decision, Exhibit 1, p. 15. Lee resumed broadcasting on Station WTRX(AM) on February 2, 1994. In the event the time brokerage agreement expires or is terminated for any reason, David Lee Scheurer, Lee's president and sole shareholder, has committed to invest personal funds to provide for the station's continued operation. Motion for Summary Decision, Exhibit 4.

8. In its motion for summary decision, Lee maintains that, since Station WTRX(AM) is now on the air and likely to remain so, issue (a) should be resolved in its favor. Lee also contends that issue (b) should be resolved in its favor. In this regard, Lee contends it did not violate either Section 73.1740 or 73.1750 of the Commission's Rules.

9. Section 1.251 of the Commission's Rules provides for summary decision where there is no genuine issue of material fact for determination at hearing. New Broadcasting Corp., 44 FCC 2d 386 (1973). A request for summary decision requires a showing that "the truth is clear," that "the basic facts are undisputed," and that "the parties are not in disagreement regarding material factual inferences that may be properly drawn from such facts." Big Country Radio, Inc., 50 FCC 2d 967 (1975).

10. Considering the time brokerage agreement, WTRX(AM)'s resumption of broadcast operations, and the commitment of Lee's principal to provide necessary funding to stay on the air in the event the time brokerage agreement expires or terminates for any reason, the Bureau submits that issue (a) should be resolved in favor of Lee. Further, the Bureau agrees with Lee that it did not violate Section 73.1750 of the Commission's Rules since Lee never intended a permanent discontinuance of operations of Station WTRX(AM). Finally, although the Bureau disagrees with Lee as to whether Section 73.1740 was violated, the Bureau agrees

that summary decision is warranted because there is no genuine dispute as to any material fact.

11. Section 73.1740 of the Commission's Rules prescribes minimum operating schedules for commercial broadcast licensees. Among other things, the rule requires that, if a licensee is going to keep its station off the air for more than 30 days, it must obtain authorization from the Commission to do so. Section 73.1740(a)(4). Commission authority to operate less than the minimum required by Section 73.1740 is conferred by a grant of special temporary authority pursuant to Section 73.1635 of the Commission's Rules.

12. As noted, between August 20, 1990 and the issuance of the HDO, Station WTRX(AM) was off the air. Prior to April 29, 1993, the Commission had granted Station WTRX(AM) authority to remain silent. However, on April 30, 1993, the Commission notified Lee that its April 13, 1993, request for continued authority not to operate Station WTRX(AM) was insufficient to justify an extension of special temporary authority to remain silent. The Commission gave Lee a deadline of June 1, 1993, to submit any further request and informed Lee what such a request must include. However, Lee's June 3, 1993, letter was neither timely nor responsive. Under the circumstances, Lee had no valid reason for believing that Station WTRX(AM) had continued authority to remain silent or that its request for such authority

would be granted nunc pro tunc. Hence, Lee's reliance on 5 U.S.C. Section 558(c)(2) is misplaced. In this regard, Lee did not lose its license. Rather, it simply did not receive a grant of a request for special temporary authority to remain silent. See Section 73.1635 of the Commission's Rules. By its very nature such authority is special and temporary. It does not confer upon a licensee the rights attendant to a permit or license and may be cancelled without prior notice or right to hearing. See Section 73.1635(b). In short, absent an express declaration by the Commission that Lee had continued authority not to resume broadcast operations, it had no such authority. Moreover, Lee's letters of April 13, 1993, and June 3, 1993, did not confer upon Lee authority to keep Station WTRX(AM) off the air nor did they revive any authority which had been previously granted but had since expired. Accordingly, while summary decision on issue (b) is also appropriate, the presiding judge should determine that Lee violated Section 73.1740, of the Commission's Rules.

13. Because there is no genuine dispute as to any material fact, the Bureau agrees with Lee that summary decision is appropriate. Further, considering that Station WTRX(AM) is back on the air and appears likely to remain so, the Bureau submits that issue (a) should be resolved in favor of the licensee. Further, considering all the circumstances, the Bureau submits that renewal of license is warranted. However, because Lee violated Section 73.1740 a sanction should be imposed.

Considering that Lee's financial condition contributed to its prolonged silence, the Bureau is not recommending imposition of a forfeiture. Rather, the Bureau recommends that grant of renewal should be for a short term to end October 1, 1995, one year before the term would ordinarily end. As stated in Lee's motion for summary decision at p. 6, Lee is not opposing the Bureau's request for a short term renewal.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Charles E. Dziedzic
Chief, Hearing Branch



James W. Shook
Attorney
Mass Media Bureau

Federal Communications Commission
2025 M Street N.W.
Suite 7212
Washington, D.C. 20554
(202) 632-6402

March 15, 1994

ATTACHMENT A

DAVID LEE COMMUNICATIONS, INC.
G-3458 W. BRISTOL ROAD
FLINT, MICHIGAN 48507
(313)-232-2670

June 28, 1991

JUL 28 1991

AM BRANCH

James R. Burtle, Chief, AM Branch
Federal Communications Commission
Washington, D.C. 20554

RE: Radio Station WTRX (AM)

Dear Mr. Burtle:

Please accept this letter as our request for an extension of our existing authority to remain silent for an additional 120 days, until October 29, 1991.

In accordance with your letter dated April 1, 1991, we submit the following for your consideration.

As explained in our last request, we have suffered difficulty in making the necessary repairs to the station's transmitting equipment. Because of the age of the equipment, the claims company and the expert of our insurance agent sent the damaged equipment first to a supplier in Texas for tests, for a determination of whether or not repairs could be made. The company in Texas was unable to make that determination, and sent the equipment back here to Michigan. The claims company then sent the equipment to another supplier in Florida, in hopes that the supplier there could make that determination. Currently, the equipment is still in Florida, undergoing tests.

We have emphasized the urgency of this matter with our insurance company, and have requested them to either get the equipment repaired, or replace it, as called for in the provisions of our insurance policy. We indicated in our last letter to you that we expected these repairs to be completed by this time. However, admittedly, those expectations were based upon input from the experts who are working on behalf of the insurance company.

In addition, our engineer, Donald McComb, will require additional time to make further tests to the balance of the equipment, once it is repaired or replaced. He indicates that other components may have been damaged by the water, but he is unable to make that determination until the transmitter equipment is back in place.

DAVID LEE COMMUNICATIONS, INC.

James R. Burtle
June 28, 1991
Page 2.

Also, we continue to seek investors and/or partners to help correct some of the financial difficulties the station has experienced. We continue to receive proposals from interested parties, and believe that we will be able to achieve the necessary financial goals, if this additional extension is granted.

Finally, please be assured that we have maintained, and will continue to maintain, the prescribed tower lighting for WTRX. Further, be assured that we will file any and all applications necessary should a buyer or purchaser be arranged, and that we will notify the F.C.C. before the station returns to the air.

We sincerely appreciate your consideration for this request, and we appreciate your consideration and cooperation to date. If you should require any additional information, please do not hesitate to contact the undersigned, or Steven P. Iamarino, 2467 E. Hill Road, Suite B, Grand Blanc, Michigan 48439, telephone number (313) 695-8400.

Respectfully,
David Lee Communications, Inc.



David L. Schuehrer
President

cc: Steven P. Iamarino, Esq.

ATTACHMENT B

DAVID LEE COMMUNICATIONS, INC.
G-3458 W. BRISTOL ROAD
FLINT, MICHIGAN 48507
(313)-232-4030

October 28, 1991

OCT 29 1991

Ms. Sharlene Lofty
Federal Communications Commission
Washington, D.C. 20554

AM BRANCH

RE: Radio Station WTRX (AM)
Genesee County, Michigan

Dear Ms. Lofty:

This letter is written in follow-up to your telephone conversation of October 16, 1991, with Mr. Steven Iamarino, and to request an extension of our existing authority to remain silent for an additional 120 days, until February 26, 1991.

As I believe Mr. Iamarino explained to you, our efforts and negotiations with our insurance carrier to settle our claim for the wind and water damage the station suffered, continue. While we have been able to settle a portion of the claim, and the obviously damaged components have finally been repaired or replaced, there still remains problems with the station's transmitting equipment. As explained in our last letter, our engineer, Donald McComb, requires additional time to install the replacement equipment, and to run tests on the balance of the system to determine what other equipment requires repair. That installation and those determinations are underway as of the date of this letter.

Also, meetings with prospective investors and/or buyers for the station to help correct some of its financial difficulties are ongoing. Some discussions have progressed to a point wherein format possibilities and personnel requirements have been addressed. We remain optimistic that the station's financial needs can be achieved if this additional extension is granted.

In summary, this request for an additional 120 days is required to allow us to continue with the repairs on the station's equipment, and to allow us to continue to negotiate with our prospective investors in good faith.

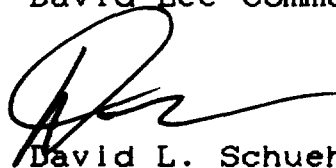
DAVID LEE COMMUNICATIONS, INC.

Ms. Sharlene Lofty
October 28, 1991
Page 2.

We further confirm that we have maintained, and will continue to maintain, the prescribed tower lighting for WTRX. Also, please be assured that we will file any and all required documents with the F.C.C. should an investor or a buyer be arranged, and that we will notify the F.C.C. before the station returns to the air.

Thank you for your consideration for this request, and for your continued cooperation with us to date. If you should you require any additional information, please do not hesitate to contact the undersigned, or Steve P. Iamarino, 2467 E. Hill Road, Suite B, Grand Blanc, Michigan 48439, telephone number (313) 695-8400.

Respectfully,
David Lee Communications, Inc.



David L. Schuehrer
President

cc: Steven P. Iamarino

ATTACHMENT

C

DAVID LEE COMMUNICATIONS, INC.
G-3458 W. BRISTOL ROAD
FLINT, MICHIGAN 48507
(313)-232-4030

May 27, 1992

Mr. James R. Burtle
Chief, AM Branch
Federal Communications Commission
Washington, D.C. 20554

RE: 8910-SML
WTRX (AM)
Genesee County, Michigan

Dear Mr. Burtle:

This letter is written to request an extension of our authority for WTRX (AM), to remain silent for an additional 120 days, through September 25, 1992. In response to your letter dated February 28, 1992, we submit the following.

We have been earnestly pursuing a number of avenues to obtain the necessary financial interests to return the station to on-air operations. Currently, there are two separate parties with whom we have been actively negotiating. Both show a high interest in either purchasing the station in total, or, entering into a joint venture with this company. Either scenario will provide the resources necessary to provide the quality programming commensurate with the station's reputation and the community's needs.

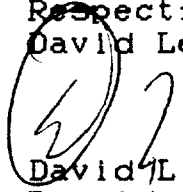
Therefore, this request for an additional 120 days is required to allow us to continue to negotiate with these interested parties in good faith.

Enclosed, as required, is an Anti-Drug Abuse Act Certification. Further, please be advised that we are maintaining the prescribed tower lighting in accordance with the station's license authorization, and that prior to returning the station to on-air operations, we will notify the Commission, in writing, regarding all necessary notices, including FCC Form 302.

Mr. James R. Burtle
May 27, 1992
Page 2.

Thank you for your consideration in this matter.
If you should have any questions, or if you should
require additional information, please do not hesitate
to contact the undersigned.

Respectfully,
David Lee Communications, Inc.



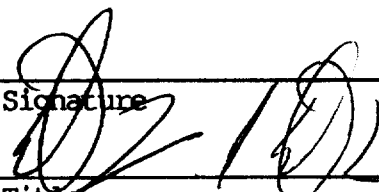
David L. Schuehrer
President

ANTI-DRUG ABUSE ACT CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. § 1.2002(b).

☒ Yes

☐ No

Name of Applicant	Signature
DAVID L. SCHVEHRER	
Date	Title
5-27-92	Pres.

ATTACHMENT D

DAVID LEE COMMUNICATIONS, INC.
G-3458 W. BRISTOL ROAD
FLINT, MICHIGAN 48507
(313) 232-4030

SEPTEMBER 15, 1992

Mr. James R. Burtle
Chief, AM Branch
Federal Communications Commission
Washington, D.C. 20554

AM BRANCH

SEP 16 1992

RE: 8910-SML
WTRX (AM)
Genesee County, Michigan

Dear Mr. Burtle:

This letter is written to request an extension of our authority for WTRX (AM), to remain silent for an additional 120 days through January 18, 1993.

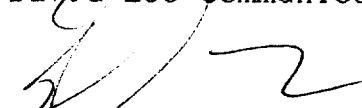
We are still in the process of working on the financial aspect of returning WTRX to an on air status. We have had our engineer, Mr. Don McComb contact several satellite programming services in an effort to determine the most economical and effective news/talk format for our market area. We are very close to consumating a network agreement. However, we are still in pursuit of obtaining an adequate financial resource which we feel is necessary to provide proper funding.

This request for an additional 120 days is necessary to allow us to continue to negotiate with these parties in good faith.

Please be advised that we are maintaining the prescribed tower lighting in accordance with the station's license authorization and that prior to returning the station to on-air operations, we will notify the commission, in writing, regarding all necessary notices including FCC Form 302. We are enclosing an Anti-Drug Abuse Act Certification as required.

Thank you for your consideration in this matter. If you should have any questions, or if you should require additional information, please do not hesitate to contact the undersigned.

Respectfully,
David Lee Communications, Inc.


David L. Schuehrer
President

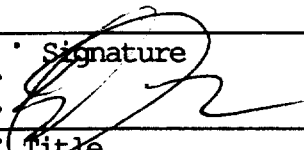
8910-SML
WTRX

ANTI-DRUG ABUSE ACT CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862a, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. § 1.2002(b).

☒ Yes

☐ No

Name of Applicant	Signature
DAVID L. SCHUEHRER	
Date	Title
9-15-92	PRESIDENT

ATTACHMENT

E

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
February 28, 1992

IN REPLY REFER TO:
8910-SML

David L. Schuehrer, President
David Lee Communications, Inc.
G-3458 W. Bristol Road
Flint, Michigan 48507

In re: WTRX (AM)
Genesee County, Michigan

Dear Sir or Madame:

This letter concerns your pending request for authority to remain silent. Temporary authority is hereby granted for the above-referenced station to remain silent through May 28, 1992.

On December 11, 1991, the Commission adopted a Report and Order (copy attached) which amended Part 1 of the Commission's Rules, to implement Section 5301 of the Anti Drug Abuse Act of 1988. Pursuant to the Report and Order, any requests for extension of this authority must be accompanied by a certification that neither the applicant nor any party to the request is subject to a denial of Federal benefits under Section 5301. Please use the attached certification page to comply with this requirement.

Any further requests for extension of this authority must be accompanied by a detailed summary of steps taken to return the station to on-air operations. It will be necessary to maintain prescribed tower lighting in accordance with the stations license authorization. If an extension is not required, you are requested to notify the Commission, in writing, of the exact date the station resumes on-air operations.

In the event that any AM station remains silent for a period over 6 months, it will be necessary to file with the Commission, prior to returning the station to on-air operations, an FCC Form 302 for direct measurement of power which should include a partial proof of performance for stations with directional antennas.

Sincerely,

James R. Burtle
Chief, AM Branch
Audio Services Division
Mass Media Bureau

Attachments

ANTI-DRUG ABUSE ACT CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a, or, in the case of a non-individual applicant (e.g. corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. § 1.2002(b).

☐ Yes

☐ No

Name of Applicant	Signature
Date	Title

ATTACHMENT F

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
June 18, 1992

IN REPLY REFER TO:
8910-SML

David Schuehrer, President
Radio Station WTRX (AM)
G-3458 W Bristol Road
Flint, MI 48507

In re: WTRX
Genesee County, MI

Dear Sir or Madame:

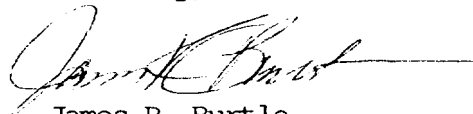
This letter concerns your pending request for authority to remain silent. Temporary authority is hereby granted for the above-referenced station to remain silent through September 18, 1992.

On December 11, 1991, the Commission adopted a Report and Order (copy attached) which amended Part 1 of the Commission's Rules, to implement Section 5301 of the Anti Drug Abuse Act of 1988. Pursuant to the Report and Order, any requests for extension of this authority must be accompanied by a certification that neither the applicant nor any party to the request is subject to a denial of Federal benefits under Section 5301. Please use the attached certification page to comply with this requirement.

Any further requests for extension of this authority must be accompanied by a detailed summary of steps taken to return the station to on-air operations. It will be necessary to maintain prescribed tower lighting in accordance with the stations license authorization. If an extension is not required, you are requested to notify the Commission, in writing, of the exact date the station resumes on-air operations.

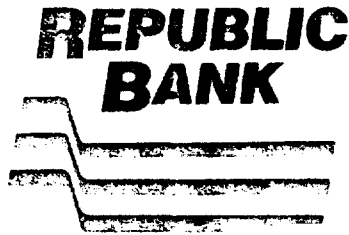
In the event that any AM station remains silent for a period over 6 months, it will be necessary to file with the Commission, prior to returning the station to on-air operations, an FCC Form 302 for direct measurement of power which should include a partial proof of performance for stations with directional antennas.

Sincerely,



James R. Burtle
Chief, AM Branch
Audio Services Division
Mass Media Bureau

Attachments



April 1, 1993

ATTACHMENT

G

Mr. David L. Schuehrer
1303 E. Baldwin Road
Grand Blanc, MI 48539

Re: Commercial Loan Request

Dear Dave:

I'm pleased to confirm Republic Bank's approval of a commercial loan to refinance the building located at 3076 E. Bristol Road. This letter constitutes the Banks commitment to make the loan subject to the terms and conditions contained here in. This commitment shall expire at the Banks option if:

- a. The bank has not received the borrowers signed acceptance of this commitment by April 15, 1993.
- b. The closing on this loan does not occur on or before June 1, 1993.
- c. There occurs any material change in the financial conditions or the affairs of the borrower from that represented to the bank
- d. There occurs any material decline in the value of the collateral for the loan from that represented to the Bank.

This commitment is not assignable in the borrowers undertaking contain herein shall survive the loan closing.

David L. Schuehrer
Commercial Loan Commitment
Page 2
April 1, 1993

The terms and conditions of this commitment are as follows:

BORROWER: David L. Schuehrer

AMOUNT: \$300,000

USE OF THE PROCEEDS: The proceeds of the loan will be used to pay off an existing mortgage on 3076 E. Bristol Road and to pay miscellaneous taxes associated with the property.

INTEREST RATES/ TERM: You will have the following options:

1. Fixed at 9% on a three year balloon with payments based upon a 15 year amortization.
2. Fixed at 9.75% on a five year balloon with payments based upon a 15 year amortization.
3. Variable at the prime rate as published in the Wall Street Journal plus 2%. The Wall Street Journal prime may not necessarily be the lowest rate at which the Bank loans money to any of its borrowers.

The banks documents will provide for a higher rate of interest in the event of default.

FEES: This commitment will carry a 1% (\$3,000) commitment fee. In addition you will be responsible for any out of pocket costs associated with this transaction including, but not limited to, appraisal, title insurance, survey, recording fees, environmental studies, and attorneys fees.

REPAYMENT: The loan shall be repaid in monthly installments including interest sufficient to amortize the loan over 15 years at the interest rate and terms above. The monthly payment will be determined prior to closing the loan and the Bank will have the option to adjust the amount of the payment each time the interest rate is adjusted if you choose the variable rate option.

COLLATERAL:

Collateral for the loan shall consist of a first real estate mortgage and assignments of rents and leases on 3076 E. Bristol Road, Flint, MI and a second real estate mortgage on 1303 E. Baldwin Road, Grand Blanc, MI.

ENVIRONMENTAL:

The Bank will require a satisfactory Phase I environmental audit to be completed on 3076 E. Bristol Road. Providing Phase I is satisfactory, at the closing you will be required to sign an environmental agreement (form enclosed with this letter) with respect to the collateral referenced above. Unless otherwise indicated in writing to the Bank, your signed acceptance of this letter constitutes a representation that you have no knowledge of any current violation of any of the terms and provisions of the environmental agreement.

INSURANCE:

The borrower shall furnish the Bank proof of appropriate hazard insurance with respect to the collateral described herein which shall be in form amount acceptable to the Bank. All such policies shall contain mortgagee clauses as appropriate which are acceptable to the Bank and shall name the bank as mortgagee and shall require 30 days written notice to the bank prior to cancellation, non-renewal, reduction of coverage, or material change in policy terms.

OTHER:

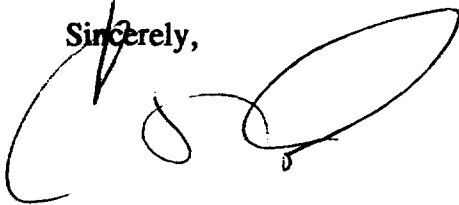
1. This commitment is expressly contingent upon the following:
 - a. As indicated above a satisfactory Phase I environmental on 3076 E. Bristol Road
 - b. An appraisal on 3076 E. Bristol Road from an appraiser acceptable to the bank indicating a fair market value of not less than \$200,000.
2. In order for us to follow the progress of this loan we will require the following information:
 - a. Annual personal financial statements on Republic Bank's form.
 - b. Annual copies of your personal tax return.
 - c. Annual corporate tax returns on:
 - (1) Select Mobile Homes of Flint, Inc., and
 - (2) Yaklin Discount Homes of America, Inc.

David L. Schuehrer
Commercial Loan Commitment
Page 4
April 1, 1993

Dave, we certainly appreciate the opportunity to provide this proposal and we hope that it is sufficient to meet your needs. Providing our commitment is acceptable, please sign the acknowledgement below and return the original copy of this letter along with the \$3,000 commitment fee to my attention. If you have any questions regarding the items outlined in this letter please feel free to give me a call.

Thank you for banking with Republic Banks.

Sincerely,

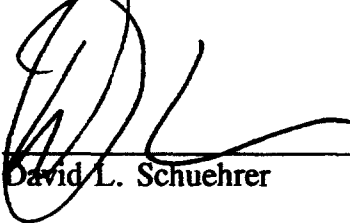


Craig L. Johnson
Senior Vice President

CLJ:la

Enclosure

The undersigned proposed Borrower hereby accepts this commitment and agrees to its terms and conditions.



David L. Schuehrer

April 14, 93

Date

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch Mass Media Bureau, certifies that she has, on this 15th day of March, 1994, sent by regular United States mail, U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Comments on Motion for Summary Decision and Countermotion for Summary Decision"** to:

Arthur Belendiuk, Esquire
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Michelle C. Mebane
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